श्री प्रमोद महाजन : महिलाओं को तो और सहनशक्ति के साथ समर्थन करना चाहिए ।

श्रीमती सरला माहेश्वरी : आप लोगों का भार ढोते-ढोते बहुत सहनशील हो गए हैं ।

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): Okay. Now, we take up the Transfer of Property (Amendment) Bill, 2002.

THE TRANSFER OF PROPERTY (AMENDMENT) BILL, 2002

कोयला और खान मंत्रालय में राज्य मंत्री तथा विधि और न्याय मंत्रालय में राज्य मंत्री (श्री रविशंकर प्रसाद): Sir, I move:

> That the bill further to amend the Transfer of Property Act, 1982, as passed by Lok Sabha, be taken into consideration

उपसभाध्यक्ष जी, यह बहुत ही छोटा बिल है । यह जो संपत्ति अंतरण का अधिनियम है, उसकी धारा 106 के विषय में यह प्रावधान है कि अगर यह लीज है तो the notice period would be six months if the lease is from year to year, और अगर मंथ टू मंथ है तो फिफ्टीन डेज का नोटिस है । इसमें एक समस्या यह आ रही थी कि जिस दिन नोटिस सर्व हुआ वह काउंट होगा कि नहीं होगा । That is the whole idea behind this Bill. The Supreme Court had said, "It will not be counted". And, this was creating a lot of problems. The other point was, the commencement of the period of notice and the time when the tenancy began, were matters of dispute. And, what happened was, the people kept filing case after case, but when the High Court said, "Notice was not served", the suit failed. And it had to be started afresh. This was creating a lot of problems. Therefore, to avoid litigation and to expedite the entire thing, this amendment has been brought whereby in addition to original Section 106, two proviso have been added. Firstly, for the purpose of Section 106, the date on which the notice is served shall be taken as the commencement of that period, and, secondly, even if a suit is filed after the period of notice is over, that suit shall not be deemed to be invalid. These two changes have been made. This Bill has already been passed by the Lok Sabha. I request this House -- it is a curative amendment; if I should use the legal expression -- also to pass this Bill.

The question was proposed.

SHRIMATI VANGA GEETHA (Andhra Pradesh): Sir, I welcome this Bill. I have only one point to make and that is pertaining to sub-clause 4 of clause 2 which says: "Every notice under sub-section (1) must be in writing, signed by or on behalf of the person giving it, and either be sent by post or delivered personally to the party or his family members..." I want that it should be mentioned, 'Registered post with Acknowledgement due'. Otherwise, it will lead to further complications, further litigations, between the parties. I say this because when it is delivered at somebody's house and the servant happens to receive the post, he is not educated enough to know the importance of it, and he might just drop it somewhere. So, I request the hon. Minister to make it compulsory that it should be sent by registered post.

SHRI PRASANTA CHATTERJEE (West Bengal): Sir, I welcome this Bill. Definitely, it will reduce the multiplicity of litigation in various courts. But I wish to make one observation that the relationship between the lessor and the lessee should be terminated before the lessor sues for possession. My point is that a tenant should not be asked to vacate the premises unless a notice is served. Sufficient time should be given. With this observation, I welcome this Bill.

SHRI S. VIDUTHALAI VIRUMBI (Tamil Nadu): Sir, I want to know whether Mr. Shunmugasundaram's name is there.

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): Yes, his name is here. I am sorry.

SHRI R. SHUNMUGASUNDARAM (Tamil Nadu): I just want to pose two questions for clarification to the hon. Minister. In the Statement of Objects and Reasons of this Bill, it is stated that in the year 1965, a judgement was given by the Supreme Court in which certain recommendations were made, but are not yet implemented. In order to implement them, this Bill has been introduced after half a century almost. I would like to seek two clarifications from the hon. Minister. The first is, the period of limitation is to be counted from the date of receipt of the notice. If that is so, then will it not give room for manipulation by delaying by the party concerned? Will it not attempt to delay on receiving of notice? The second is, what is the effect of certain amendments brought out in the new CPC regarding service of notice through E-mail etc.? Have these

provisions in CPC been taken care of? With these words, I support the Bill. Thank you, very much.

SHRI RAVI SHANKAR PRASAD: Sir, I am grateful for the very pointed queries raised by the hon. Members. Shrimati Vanga Geetha mentioned about post. In our law, post has a distinct connotation. Post means ordinary post and also registered post. Therefore, there is no dispute about that. As far as my hon. friend, Shri Shunmugasundaram's observations are concerned, CPC amendment incorporates certain norms of service of notice. Whenever a suit shall be filed, the plaintiff will have the right to establish that the notice has been served in the mode enumerated in law. And the same CPC enumerates personal service, service by fax, service by courier and also service by registered post. Therefore, they automatically become legal service in the eye of law. Therefore, Sir, I appreciate that. As far as computation part is concerned I think, if my friend would see sub-section (3) of the new section 106, that would obviate his apprehension about clause 2. Sub-section (3) clearly says a notice under sub-section (1) shall not be deemed to be invalid merely because the period mentioned therein falls short of the period specified under that sub-section, where a suit or proceeding is filed after the expiry of the period mentioned in that sub-section. Therefore, if the plaintiff had taken full care to ensure service of notice and, thereafter, filed the suit after the notice period, then this kind of evasive activities of the defendant would not fail the suit. Therefore, all the care has been taken. Sir, with these clarifications, I request the House to pass the Bill.

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): I now put the motion to vote. The question is:

> That the Bill further to amend the Transfer of Property Act, 1882, as passed by Lok Sabha, be taken into consideration.

The motion was adopted.

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): We shall now take up clause-by-clause consideration of the Bill.

Clauses 2 and 3 were added to the Bill.
Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI RAVI SHANKAR PRASAD: Sir, I move:

That the Bill be passed.

The question was put and the motion was adopted.

THE VICE-CHAIRMAN (SHRI SURESH PACHOURI): We shall now take up the Indian Evidence (Amendment) Bill, 2002.

THE INDIAN EVIDENCE (AMENDMENT) BILL, 2002.

कोयला और खान मंत्रालय में राज्य मंत्री तथा विधि और न्याय मंत्रालय में राज्य मंत्री (श्री रवि शंकर प्रसाद) : महोदय, मैं प्रस्ताव करता हूं:

> "कि भारतीय साक्ष्य अधिनियम, 1872 का और संशोधन करने वाले विधेयक पर, लोक सभा द्वारा पारित रूप में, विचार किया जाए ।"

उपसभाध्यक्ष जी, यह जो मैं इस सदन के समक्ष प्रस्तुत कर रहा हूं, यह लोक सभा द्वारा पारित बिल है । यह बिल अपने आप में बहुत ही ऐतिहासिक बिल है, क्योंकि महिलाओं के साथ बलात्कार के मामले में जो कुछ ऐसे प्रावधान थे, जिन का बहुत दुरुपयोग होता था, जिसके संबंध में लॉ कमीशन की अनुशंसा भी थी और जिसके संबंध में स्वयं विमेन कमीशन की अनुशंसा भी थी, उन सारी अनुशंसाओं के आलोक में यह बिल प्रस्तुत किया गया है। आदरणीय उपसभाध्यक्ष जी, भारत का जो साक्ष्य अधिनियम है, इंडियन एविडेंस एक्ट है, उसमें धारा 155 में एक प्रावधान था । जब रेप का मामला चलता है, तो उसके अंतर्गत जो प्रावधान है उसको मैं प्रस्तुत करना चाहता हूं :

> "The credit of a witness may be impeached in the following ways by the adverse party, or, with the consent of the Court, by the party who calls him...";

इसकी एक क्लाज़ 4 है, which says:

> "When a man is prosecuted for rape or an attempt to ravish, it may be shown that the prosecutrix was of generally immoral character"

आदरणीय उपसभाध्यक्ष जी, ऐसे मामले जब होते थे, बलात्कार का मामला सुनवाई के लिए जब कोर्ट पहुंचता था तो जो अभियुक्त थे उनकी ओर से चरित्र के विषय में बड़े अजीब